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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,726	01/26/2004	Leigh Michael Chinitz	034421-000176	2544

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Robert E. Krebs  
Thelen Reid & Priest, LLP  
P.O. Box 640640  
San Jose, CA 95164-0640

EXAMINER

SHEDRICK, CHARLES TERRELL

ART UNIT	PAPER NUMBER
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2687

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/765,726

Applicant(s)

CHINITZ ET AL.

Examiner

Charles Shedrick

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/26/04 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Double Patenting*

Claims 1-7 of this application conflict with claim 1-7 of Application No. 10/765562. 37

CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-4 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Wan U.S. Patent # 6,044,069.**

Consider **claim 1**, Wan discloses a device for sending data to one or more wireless devices in a wireless network, the data being time constant digital data, the device (**column 6 lines 15-22**) comprising: a first circuit for alerting the wireless devices that the time constant digital data is to be sent (**column 7 lines 54-59 and column 21 lines 31-45**); a second circuit for defining a frame in which the time constant digital data is to be sent (**column 8 lines 2-5**); and a third circuit for sending the digital data to the one or more wireless devices (**column 8 lines 13-15**).

Consider **claim 2**, Wan discloses a device for sending data to a plurality of wireless devices in a wireless network, the data being time constant digital data, the device comprising: a first circuit for alerting the wireless devices that the time constant digital data is to be sent (**column 7 lines 54-59**); a second circuit for defining a frame in which the time constant digital data is to be sent (**column 8 lines 2-5**); and a third circuit for sending the digital data as a single data block to the plurality of wireless devices within the frame (**column 11 lines 37-41 and column 2 lines 20-28**).

Consider **claim 3**, Wan discloses a device for receiving data at one of a plurality of wireless devices in a wireless network, the data being time constant digital data, the device comprising: a first circuit for receiving an alert that the time constant digital data is to be sent (**column 21 lines 30-45**); a second circuit for receiving parameters regarding a frame in which the time constant digital data is to be sent (**column 21 lines 45-57**); a third circuit for receiving the digital data as a single data block to the plurality of wireless devices within the frame (**column 11 lines 37-41 and column 2 lines 20-28**); and a fourth circuit for extracting the digital data bound for the one of a plurality of wireless devices from the single block of data (i.e., via the SPCH short page channel)(**column 21 lines 4-14 and column 11-16**).

Consider **claim 4**, Wan discloses a device for receiving data from one or more wireless devices in a wireless network, the data being time constant digital data, the device comprising: a first circuit for alerting the wireless devices that the time constant digital data is to be sent (column 21 lines 30-45); a second circuit for defining a frame in which the time constant digital data is to be sent (**column 8 lines 2-5**); a third circuit for polling the particular wireless device to

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initiate the sending of the digital data (**column 23 lines 39-59**); and a fourth circuit for receiving the data sent from each particular polled wireless device (**column 22 lines 53-65**).

Consider **claim 7**, Wan discloses a method for sending digital data to a plurality of wireless devices in a wireless network, the method comprising: alerting the plurality of wireless devices to receive the time constant data (**column 7 lines 54-59**); and sending one block of data, the one block of data comprising all of the data destined for the plurality of wireless devices (**column 11 lines 37-41**).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor

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and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**Claims 5 and 6** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Wan U.S. Patent # 6,044,069** in view of **Joshi et al. U.S. Patent Application 6,006,017**.

Consider **claims 5 and 6**, Wan discloses a method for receiving digital data from a wireless device in a wireless network, the method comprising; alerting the wireless device to send the time constant data (**column 7 lines 54-59 and column 21 lines 31-45**); polling the wireless device to send time constant data (**column 23 lines 39-59**).

However, Wan fails to clearly disclose wherein receiving a sent packet of time constant data from the particular wireless device.

In the same field of endeavor, Joshi et al. discloses in column 8 lines 19-37 wherein acknowledgment is sent in response to receiving data.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Wan to include Joshi et al. in order to provide a means of acknowledging the receipt of data.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Shedrick whose telephone number is (571)-272-8621.

The examiner can normally be reached on Monday thru Friday 8:00AM-4:30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kincaid Lester can be reached on (571)-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Charles Shedrick  
AU 2687  
October 17, 2005

  
10/31/05  
**LESTER G. KINCAID**  
**SUPERVISORY PRIMARY EXAMINER**